

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

EMPLOYERS MUTUAL CASUALTY)	
COMPANY, an insurance company)	
incorporated in the State of Iowa;)	
)	CIVIL ACTION NUMBER
Plaintiff,)	
)	2:05 CV 602-T
V.)	
)	
OLLIE WADSWORTH; and)	
JOSEPH M. PEIL)	
)	
Defendants.)	

EMPLOYERS MUTUAL CASUALTY COMPANY’S
MOTION FOR LEAVE TO FILE REPLY BRIEF

COMES NOW Employers Mutual Casualty Company (“EMCC”) and requests leave to file the reply brief attached as Exhibit 1 to this motion as EMCC’s reply to the defendants’ responses to EMCC’s motion for summary judgment. This motion is based upon the following:

1. This action is a declaratory judgment action wherein EMCC is seeking a determination of rights regarding an insurance policy issued to Defendant Ollie Wadsworth arising out of an action in the Circuit Court of Bullock County, Alabama styled, *Joseph M. Peil v. Ollie Wadsworth*, CV 04-87 (“the underlying action”).

2. EMCC's brief in support of its motion for summary judgment addressed the breach of contract claim asserted in the complaint in the underlying action.
3. In defendant Wadsworth's opposition to EMCC's motion for summary judgment defendant Wadsworth attached an amended complaint stamped filed February 28, 2005 in the underlying action which asserts a claim of misrepresentation and suppression.
4. Counsel for EMCC was unaware of an amended complaint in the underlying action until Wadsworth filed her response brief. The Alabama state court SJIS case detail did not and does not reflect an amended complaint. (See attached SJIS case detail as Exhibit 2).
5. EMCC owes no duties to Wadsworth for these claims (breach of contract, misrepresentation and suppression).
6. EMCC is seeking the opportunity to address the claims asserted in the amended complaint as well as any other arguments addressed in Wadsworth and Peil's response briefs.

WHEREFORE, EMCC respectfully requests leave to file the reply brief attached as Exhibit 1.

Respectfully submitted,

/s/James A. Kee, Jr. ASB-4314-e68j
/s/Cynthia A. Martin ASB-2044-i49c
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Company

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to:

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